

AMENDED IN ASSEMBLY APRIL 12, 2016

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1715

Introduced by Assembly Member Holden

January 26, 2016

An act to amend Sections 27 and 2920 of, to amend, repeal, and add Sections 2922, 2923, and 2927 of, to add Chapter 6.7 (commencing with Section 2999.10) to Division 2 of, and to repeal Sections 2999.20, 2999.26, 2999.31, and 2999.33 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1715, as amended, Holden. Healing arts: behavior analysis: licensing.

Existing law provides for the licensure and regulation of various healing arts licensees by various boards within the Department of Consumer Affairs, including the Board of Psychology. Under existing law, until January 1, 2017, the board is vested with the power to enforce the Psychology Licensing Law, and the board consists of 9 members, 4 of whom are public members and 5 of whom are licensed psychologists. Existing law specifies that a quorum of the board requires 5 members. Existing law requires the board to post information on its licensees, including the license status and address of record for a licensee, as specified.

This bill would enact the Behavior Analyst Act and would, until January 1, 2022, vest the board with the power to enforce the act.

This bill would, on and after July 1, 2018, increase the number of members that constitute a quorum of the board to 6 members, and would require the Governor to appoint 2 additional members to the board that meet certain requirements, including, but not limited to, that one member is licensed as a psychologist and is qualified to practice behavior analysis, as defined. The bill would also additionally require the board to post license information regarding behavior analysts, assistant behavior analysts, behavior analysis technicians, and behavior analyst interns.

This bill would require a person to apply for and obtain a license from the board prior to engaging in the practice of behavior analysis, as defined, either as a behavior analyst or an assistant behavior analyst. The bill would require these applicants to, among other things, meet certain educational and training requirements, and submit fingerprints for both a state and federal criminal background check. The bill would require an assistant behavior analyst applicant to provide proof to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis, as specified. The bill would provide that those licenses expire 2 years after the date of issuance and would authorize the renewal of unexpired licenses if certain requirements are met, including the completion of specified continuing education. The bill would also require an applicant to certify, under penalty of perjury, that he or she is in compliance with that continuing education requirement. By expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would require the registration of a behavior analyst intern by the board and would require the intern to be supervised by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis. In order to be registered, the bill would require an intern applicant to meet certain educational requirements, submit fingerprints for a criminal background check, and pay an application fee, as provided. The bill would make these intern registrations subject to renewal every 2 years and would require the payment of a renewal fee.

This bill would also require a behavior analysis technician, as defined, who practices under the direction and supervision of a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist who is qualified to practice behavior analysis, to submit, among other things, an application subject to board approval, fingerprints for a state and federal criminal background check, and payment of an application

fee. The bill would make these approvals subject to renewal every 2 years and would require the payment of a renewal fee.

This bill would, until January 1, 2022, create the Behavior Analyst Committee within the jurisdiction of the board, and would require the committee to be composed of 5 members who shall be appointed as specified. The bill would authorize the committee to make recommendations to the board regarding the regulation of the practice of behavior analysis.

This bill would require the board to conduct disciplinary hearings, as specified. The bill, on and after July 1, 2019, would make it unlawful to, among other things, practice behavior analysis without being licensed by the board, except as specified.

This bill would make a licensee or health care facility, as defined, that fails or refuses to comply with an authorized client request or court order for the medical records of a client subject to a specified civil penalty, except as specified. The bill would also make a licensee or health care facility with multiple violations of those court orders subject to a crime. By creating a new crime, the bill would impose a state-mandated local program.

This bill would make a violation of the act a misdemeanor punishable by 6 months in the county jail or a fine not to exceed \$2,500, or by both imprisonment and a fine. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 27 of the Business and Professions Code
- 2 is amended to read:
- 3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
- 4 shall provide on the Internet information regarding the status of
- 5 every license issued by that entity in accordance with the California
- 6 Public Records Act (Chapter 3.5 (commencing with Section 6250)
- 7 of Division 7 of Title 1 of the Government Code) and the

1 Information Practices Act of 1977 (Chapter 1 (commencing with
2 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).
3 The public information to be provided on the Internet shall include
4 information on suspensions and revocations of licenses issued by
5 the entity and other related enforcement action, including
6 accusations filed pursuant to the Administrative Procedure Act
7 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
8 Division 3 of Title 2 of the Government Code) taken by the entity
9 relative to persons, businesses, or facilities subject to licensure or
10 regulation by the entity. The information may not include personal
11 information, including home telephone number, date of birth, or
12 social security number. Each entity shall disclose a licensee's
13 address of record. However, each entity shall allow a licensee to
14 provide a post office box number or other alternate address, instead
15 of his or her home address, as the address of record. This section
16 shall not preclude an entity from also requiring a licensee, who
17 has provided a post office box number or other alternative mailing
18 address as his or her address of record, to provide a physical
19 business address or residence address only for the entity's internal
20 administrative use and not for disclosure as the licensee's address
21 of record or disclosure on the Internet.

22 (b) In providing information on the Internet, each entity specified
23 in subdivisions (c) and (d) shall comply with the Department of
24 Consumer Affairs' guidelines for access to public records.

25 (c) Each of the following entities within the Department of
26 Consumer Affairs shall comply with the requirements of this
27 section:

28 (1) The Board for Professional Engineers, Land Surveyors, and
29 Geologists shall disclose information on its registrants and
30 licensees.

31 (2) The Bureau of Automotive Repair shall disclose information
32 on its licensees, including auto repair dealers, smog stations, lamp
33 and brake stations, smog check technicians, and smog inspection
34 certification stations.

35 (3) The Bureau of Electronic and Appliance Repair, Home
36 Furnishings, and Thermal Insulation shall disclose information on
37 its licensees and registrants, including major appliance repair
38 dealers, combination dealers (electronic and appliance), electronic
39 repair dealers, service contract sellers, and service contract
40 administrators.

1 (4) The Cemetery and Funeral Bureau shall disclose information
2 on its licensees, including cemetery brokers, cemetery salespersons,
3 cemetery managers, crematory managers, cemetery authorities,
4 crematories, cremated remains disposers, embalmers, funeral
5 establishments, and funeral directors.

6 (5) The Professional Fiduciaries Bureau shall disclose
7 information on its licensees.

8 (6) The Contractors' State License Board shall disclose
9 information on its licensees and registrants in accordance with
10 Chapter 9 (commencing with Section 7000) of Division 3. In
11 addition to information related to licenses as specified in
12 subdivision (a), the board shall also disclose information provided
13 to the board by the Labor Commissioner pursuant to Section 98.9
14 of the Labor Code.

15 (7) The Bureau for Private Postsecondary Education shall
16 disclose information on private postsecondary institutions under
17 its jurisdiction, including disclosure of notices to comply issued
18 pursuant to Section 94935 of the Education Code.

19 (8) The California Board of Accountancy shall disclose
20 information on its licensees and registrants.

21 (9) The California Architects Board shall disclose information
22 on its licensees, including architects and landscape architects.

23 (10) The State Athletic Commission shall disclose information
24 on its licensees and registrants.

25 (11) The State Board of Barbering and Cosmetology shall
26 disclose information on its licensees.

27 (12) The State Board of Guide Dogs for the Blind shall disclose
28 information on its licensees and registrants.

29 (13) The Acupuncture Board shall disclose information on its
30 licensees.

31 (14) The Board of Behavioral Sciences shall disclose
32 information on its licensees, including licensed marriage and family
33 therapists, licensed clinical social workers, licensed educational
34 psychologists, and licensed professional clinical counselors.

35 (15) The Dental Board of California shall disclose information
36 on its licensees.

37 (16) The State Board of Optometry shall disclose information
38 regarding certificates of registration to practice optometry,
39 statements of licensure, optometric corporation registrations, branch
40 office licenses, and fictitious name permits of its licensees.

1 (17) The Board of Psychology shall disclose information on its
2 licensees, including psychologists, psychological assistants,
3 registered psychologists, behavior analysts, assistant behavior
4 analysts, behavior analysis technicians, and behavior analyst
5 interns.

6 (d) The State Board of Chiropractic Examiners shall disclose
7 information on its licensees.

8 (e) The Structural Pest Control Board shall disclose information
9 on its licensees, including applicators, field representatives, and
10 operators in the areas of fumigation, general pest and wood
11 destroying pests and organisms, and wood roof cleaning and
12 treatment.

13 (f) The Bureau of Medical Marijuana Regulation shall disclose
14 information on its licensees.

15 (g) “Internet” for the purposes of this section has the meaning
16 set forth in paragraph (6) of subdivision (f) of Section 17538.

17 SEC. 2. Section 2920 of the Business and Professions Code is
18 amended to read:

19 2920. (a) The Board of Psychology shall enforce and
20 administer this chapter and Chapter 6.7 (commencing with Section
21 2999.10). The board shall consist of nine members, four of whom
22 shall be public members.

23 (b) On and after July 1, 2018, notwithstanding subdivision (a),
24 the board shall consist of 11 members, five of whom shall be public
25 members.

26 (c) This section shall remain in effect only until January 1, 2017,
27 and as of that date is repealed.

28 (d) Notwithstanding any other law, the repeal of this section
29 renders the board subject to review by the appropriate policy
30 committees of the Legislature.

31 SEC. 3. Section 2922 of the Business and Professions Code is
32 amended to read:

33 2922. (a) In appointing the members of the board, except the
34 public members, the Governor shall use his or her judgment to
35 select psychologists who represent, as widely as possible, the varied
36 professional interests of psychologists in California.

37 (b) The Governor shall appoint two of the public members and
38 the five licensed members of the board qualified as provided in
39 Section 2923. The Senate Committee on Rules and the Speaker of
40 the Assembly shall each appoint a public member.

1 (c) This section shall become inoperative on July 1, 2018, and,
2 as of January 1, 2019, is repealed.

3 SEC. 4. Section 2922 is added to the Business and Professions
4 Code, to read:

5 2922. (a) In appointing the licensed members of the board,
6 the Governor shall use his or her judgment to select psychologists
7 and behavior analysts who represent, as widely as possible, the
8 varied professional interests of psychologists and behavior analysts
9 in California.

10 (b) The Governor shall appoint three of the public members and
11 the six licensed members of the board qualified as provided in
12 Section 2923. The Senate Committee on Rules and the Speaker of
13 the Assembly shall each appoint a public member.

14 (c) This section shall become operative on July 1, 2018.

15 SEC. 5. Section 2923 of the Business and Professions Code is
16 amended to read:

17 2923. (a) Each member of the board shall have all of the
18 following qualifications:

19 (1) He or she shall be a resident of this state.

20 (2) Each member appointed, except the public members, shall
21 be a licensed psychologist.

22 (b) The public members shall not be licentiates of the board or
23 of any board under this division or of any board referred to in the
24 Chiropractic Act or the Osteopathic Act.

25 (c) This section shall become inoperative on July 1, 2018, and,
26 as of January 1, 2019, is repealed.

27 SEC. 6. Section 2923 is added to the Business and Professions
28 Code, to read:

29 2923. (a) Each member of the board shall be a resident of this
30 state.

31 (b) Five members of the board shall be licensed as psychologists
32 under this chapter.

33 (c) One member shall be licensed as a psychologist and qualified
34 to practice behavior analysis, as defined in Section 2999.12, as
35 follows:

36 (1) For the first appointment after the operative date of this
37 section, the member shall hold a certificate as a certified behavior
38 analyst from a certifying entity, as defined in Section 2999.12.

(2) For subsequent appointments, the member shall be licensed as a behavior analyst under Chapter 6.7 (commencing with Section 2999.10).

(d) The public members shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

(e) This section shall become operative on July 1, 2018.

SEC. 7. Section 2927 of the Business and Professions Code is amended to read:

2927. (a) Five members of the board shall at all times constitute a quorum.

(b) This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.

SEC. 8. Section 2927 is added to the Business and Professions Code, to read:

2927. (a) Six members of the board shall at all times constitute a quorum.

(b) This section shall become operative on July 1, 2018.

SEC. 9. Chapter 6.7 (commencing with Section 2999.10) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 6.7. BEHAVIOR ANALYSTS

Article 1. General Provisions

2999.10. This chapter shall be known, and may be cited, as the Behavior Analyst Act.

2999.11. (a) The Legislature finds and declares that the practice of behavior analysis in California affects the public health, safety, and welfare, and is subject to regulation to protect the public from the unauthorized and unqualified practice of behavior analysis, and unprofessional, unethical, or harmful conduct by persons licensed to practice behavior analysis.

(b) It is the intent of the Legislature that the board begin accepting applications for behavior analyst licensure, assistant behavior analyst licensure, behavior analysis technician approval, and behavior analyst intern registration no later than January 1, 2018, provided that the funds necessary to implement this chapter have been appropriated by the Legislature as specified in Section 2999.98.

1 2999.12. For purposes of this chapter, the following terms have
2 the following meanings:

3 (a) “Behavior analysis technician” means an individual who
4 works directly with a client to implement applied behavior analysis
5 services under the direction and supervision of a licensed behavior
6 analyst, a licensed assistant behavior analyst, or a licensed
7 psychologist who is qualified to practice behavior analysis, and
8 has successfully completed the application requirements described
9 in Section 2999.36.

10 (b) “Board” means the Board of Psychology.

11 (c) “Certifying entity” means the Behavior Analyst Certification
12 Board or its successor, or another national credentialing
13 organization with behavior analyst certification programs approved
14 by the board and accredited by the National Commission for
15 Certifying Agencies.

16 (d) “Committee” means the Behavior Analyst Committee.

17 (e) “Department” means the Department of Consumer Affairs.

18 (f) “Licensed assistant behavior analyst” means a person licensed
19 under this chapter to practice behavior analysis under the
20 supervision of a licensed behavior analyst or a licensed
21 psychologist who is qualified to practice behavior analysis.

22 (g) “Behavior analyst intern” means a person registered under
23 this chapter to practice behavior analysis under the supervision of
24 a licensed behavior analyst or a licensed psychologist who is
25 qualified to practice behavior analysis.

26 (h) “Licensed behavior analyst” means a person licensed under
27 this chapter to practice behavior analysis.

28 (i) “Practice of behavior analysis” or “to practice behavior
29 analysis” means the design, implementation, and evaluation of
30 instructional and environmental modifications to produce socially
31 significant improvements in human behavior and includes the
32 empirical identification of functional relations between behavior
33 and environmental factors, known as functional assessment and
34 analysis, interventions based on scientific research and the direct
35 observation and measurement of behavior and the environment,
36 and utilization of contextual factors, motivating operations,
37 antecedent stimuli, positive reinforcement, and other consequences
38 to help people develop new behaviors, increase or decrease existing
39 behaviors, and emit behaviors under specific environmental
40 conditions.

(1) The practice of behavior analysis does not include psychological testing and assessment, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, counseling, prescribing drugs, performing surgery, or administering electroconvulsive therapy.

(2) The Legislature recognizes that the scopes of practice of healing arts licensees regulated under this division sometimes contain similar practices. However, nothing herein shall be construed to allow a licensed behavior analyst or a licensed assistant behavior analyst to engage in those practices, including, but not limited to, assessments, other than specific to their scope of practice within behavior analysis as described herein. Any person practicing behavior analysis under this chapter who violates this provision is subject to disciplinary action by both the Board of Psychology and the board overseeing the relevant practice.

Article 2. Administration

20 2999.20. (a) The Board of Psychology is vested with the power
21 to administer the provisions and requirements of this chapter, and
22 may make and enforce rules and regulations that are reasonably
23 necessary to carry out its provisions.

24 (b) This section shall remain in effect only until January 1, 2022,
25 and as of that date is repealed. Notwithstanding any other law, the
26 repeal of this section renders the board subject to review by the
27 appropriate policy committees of the Legislature.

28 2999.21. Protection of the public shall be the highest priority
29 for the board in exercising its licensing, regulatory, and disciplinary
30 functions pursuant to this chapter. Whenever the protection of the
31 public is inconsistent with other interests sought to be promoted,
32 the protection of the public shall be paramount.

33 2999.22. The board shall adopt, amend, and repeal regulations
34 to implement the requirements of this chapter. All regulations
35 adopted by the board shall comply with the provisions of Chapter
36 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
37 Title 2 of the Government Code.

38 2999.23. The board shall adopt a program of consumer and
39 professional education in matters relevant to the ethical practice
40 of behavior analysis. The board shall establish standards of ethical

1 conduct relating to the practice of behavior analysis that are based
2 on current standards published by a national credentialing
3 organization with behavior analyst certification programs approved
4 by the board and accredited by the National Commission for
5 Certifying Agencies. These standards shall be applied by the board
6 as the accepted standard of ethics in all law and ethics licensing
7 examination development and in all board enforcement policies
8 and disciplinary case evaluations involving the practice of behavior
9 analysis.

10 2999.24. The board may employ, subject to civil service and
11 other laws, employees as may be necessary to carry out the
12 provisions of this chapter under the direction of the executive
13 officer of the board.

14 2999.25. The board shall maintain, and make available to the
15 public, a list of all licensees. The board shall make available on
16 its Internet Web site information regarding the status of every
17 license issued by the board under this chapter pursuant to Section
18 27.

19 2999.26. (a) The Behavior Analyst Committee is hereby
20 created within the jurisdiction of the board to make
21 recommendations to the board regarding the regulation of the
22 practice of behavior analysis in the state in order to protect the
23 public from the unauthorized and unqualified practice of applied
24 behavior analysis, and unprofessional, unethical, or harmful
25 conduct by persons licensed to practice behavior analysis.

26 (b) The committee shall consist of five members. Two members
27 shall be licensed behavior analysts, one of which shall also be a
28 member of the board. One member shall be a psychologist licensed
29 under Chapter 6.6 (commencing with Section 2900) and who holds
30 a current certification from a certifying entity as a behavior analyst.
31 One member shall be a licensed assistant behavior analyst. One
32 member shall be a public member who is not licensed under this
33 chapter, under any chapter within this division, or by any board
34 referred to in the Chiropractic Act or the Osteopathic Act.

35 (c) The Governor shall appoint one licensed behavior analyst
36 member, the licensed psychologist member, and the licensed
37 assistant behavior analyst member. The Senate Committee on
38 Rules shall appoint the public member, and the Speaker of the
39 Assembly shall appoint one licensed behavior analyst member.

(d) Notwithstanding subdivisions (b) and (c), the initial appointed members of the committee shall be appointed as follows:

(1) The initial members appointed by the Governor shall be as follows:

(A) One member shall be currently certified by a certifying entity as a certified behavior analyst and shall serve an initial term of one year.

(B) One member shall be currently certified by a certifying entity as a certified assistant behavior analyst and shall serve an initial term of two years.

(C) One member shall be a licensed psychologist who is currently certified by a certifying entity as a certified behavior analyst and shall serve an initial term of three years.

(2) The initial member appointed by the Senate Committee on Rules shall serve a term of four years.

(3) The initial member appointed by the Speaker of the Assembly shall be currently certified by a certifying entity as a certified behavior analyst and shall serve an initial term of four years.

(e) Except as provided in subdivision (d), each member of the committee shall hold office for a term of four years, and shall serve until the appointment of his or her successor or until one year has elapsed since the expiration of the term for which he or she was appointed, whichever occurs first. Vacancies shall be filled by the appointing power for the unexpired portion of the terms in which they occur. A member shall not serve for more than two consecutive terms.

(f) All terms shall begin on July 1 and expire on June 30.

(g) Each member of the committee shall receive per diem and expenses as provided in Sections 103 and 113.

(h) Three members of the committee shall at all times constitute a quorum.

(i) This section shall become operative on July 1, 2018.

(j) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

2999.27. The committee shall do all of the following:

(a) Meet at least once per quarter. All meetings of the committee shall be public meetings. Notice of each regular meeting of the committee shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120))

1 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
2 Code).

3 (b) Committee meetings may be called upon reasonable notice
4 at the discretion of the chair, and shall be called at any time upon
5 reasonable notice by a written request of two committee members
6 to the chair.

7 (c) The committee shall elect a chair and a vice chair from
8 among its members at the first meeting held in each fiscal year.
9 The chair shall preside at all meetings of the committee and shall
10 work with the executive officer of the board to coordinate the
11 committee's business. If the chair is unable to attend a meeting,
12 the vice chair shall preside at the meeting.

13 2999.28. (a) The committee may make recommendations to
14 the board regarding licensing and practice standards.

15 (b) The committee may make recommendations to the board
16 regarding the adoption, amendment, and repeal of regulations to
17 implement the requirements of this chapter including, but not
18 limited to, the setting of fees and the establishment of disciplinary
19 guidelines.

20
21 Article 3. Licensing
22

23 2999.30. To qualify for licensure as a licensed behavior analyst
24 or a licensed assistant behavior analyst, each applicant shall meet
25 the board's requirements for behavior analyst or assistant behavior
26 analyst licensure, as applicable, including all of the following:

27 (a) The applicant has not committed acts or crimes constituting
28 grounds for denial of licensure under Section 480.

29 (b) The board shall not issue a license or registration to any
30 person who has been convicted of a crime in this state, or another
31 state, or in a territory of the United States that involves sexual
32 abuse of a child, or who is required to register pursuant to Section
33 290 of the Penal Code or the equivalent in another state or territory.

34 (c) The applicant has successfully passed a state and federal
35 level criminal offender record information search conducted
36 through the Department of Justice, as follows:

37 (1) The board shall request from the Department of Justice
38 subsequent arrest notification service, pursuant to Section 11105.2
39 of the Penal Code, for each person who submitted information
40 pursuant to this subdivision.

(2) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.

2999.31. (a) In order to obtain a license as a behavior analyst, an individual shall submit an application on a form approved by the board accompanied by the fees required by the board as specified in Section 2999.93.

(b) An applicant shall include, with the application, verification from the certifying entity that the applicant meets both of the following requirements:

(1) Has passed the Board Certified Behavior Analyst examination or an equivalent examination administered by the certifying entity.

(2) Maintains an active status as a certified behavior analyst with the certifying entity.

(c) Each applicant shall obtain a passing score on a California law and ethics examination administered by the board.

(d) This section shall become inoperative on July 1, 2019. An applicant who submits his or her application prior to July 1, 2019, shall be required to meet the requirements of this section to be licensed by the board.

(e) This section shall remain in effect only until January 1, 2020, and as of that date is repealed.

2999.32. (a) In order to obtain a license as a behavior analyst, an individual shall submit an application on a form approved by the board accompanied by the fees required by the board as specified in Section 2999.93.

(b) An applicant shall include, with the application, verification from the certifying entity that the applicant meets both of the following requirements:

(1) Has passed the Board Certified Behavior Analyst examination or an equivalent examination administered by the certifying entity.

(2) Maintains an active status as a certified behavior analyst with the certifying entity.

(c) Each applicant shall obtain a passing score on a California law and ethics examination administered by the board.

(d) The applicant shall meet one of the following requirements:

(1) Possess a master's degree or higher level of education from an institution, which meets the requirements described in Section

1 2999.35, that was conferred in behavior analysis, psychology, or
2 education.

3 (2) Possess a master's degree or higher level of education, which
4 meets the requirements described in Section 2999.35, and
5 completed a behavior analysis course sequence approved by the
6 certifying entity.

7 (e) In addition to subdivisions (a) to (d), inclusive, an individual
8 shall meet one of the following paragraphs in order to be licensed
9 under this chapter:

10 (1) An individual shall have completed both of the following:

11 (A) Two hundred seventy hours of classroom graduate-level
12 instruction in all of the following content areas:

13 (i) Ethical and professional conduct coursework consisting of
14 45 hours. The content must be taught in one or more freestanding
15 courses devoted to ethical and professional conduct of behavior
16 analysts.

17 (ii) Concepts and principles of behavior analysis consisting of
18 45 hours.

19 (iii) Research methods in behavior analysis, consisting of 25
20 hours of measurement, including data analysis, and 20 hours of
21 experimental design.

22 (iv) Applied behavior analysis, consisting of 45 hours of
23 fundamental elements of behavior change and specific behavior
24 change procedures, 30 hours of identification of the problem and
25 assessment, 10 hours of intervention and behavior change
26 considerations, 10 hours of behavior change systems, and 10 hours
27 of implementation, management, and supervision.

28 (v) Elective coursework in behavior analysis consisting of 30
29 hours.

30 (B) Supervised experiential training by any of the following:

31 (i) One thousand five hundred hours of independent field work
32 in behavior analysis supervised in accordance with the requirements
33 of the certifying entity.

34 (ii) One thousand hours of supervised practicum in behavior
35 analysis within a university practicum approved by the certifying
36 entity, taken for graduate academic credit, and completed with a
37 passing grade.

38 (iii) Seven hundred fifty hours of supervised intensive practicum
39 in behavior analysis within a university practicum approved by

1 the certifying entity, taken for graduate academic credit, and
2 completed with a passing grade.

3 (iv) A combination of the supervised experience in clause (i),
4 (ii), or (iii). Hours may be completed in any combination of the
5 categories of supervised experience. Hours accrued through a
6 combination of supervised experience shall be proportionately
7 calculated.

8 (2) An individual shall meet all of the following requirements:

9 (A) Have a faculty appointment of at least three years,
10 cumulatively, of full-time work as a faculty member at a fully
11 accredited higher education institution within a five-year period.

12 (B) Taught at least five sections or iterations of behavior analysis
13 coursework. An applicant shall have taught at least two behavior
14 analysis content areas, which are concepts and principles of
15 behavior, single-subject research methods, applied behavior
16 analysis, and ethics in behavior analysis, in separate courses. Each
17 course taught shall have been exclusively or primarily devoted to
18 behavior analysis content, and shall have been taught at the
19 graduate level. An applicant shall submit proof of completion of
20 the faculty appointment and teaching requirements from a
21 department head, including the syllabus for each course taught, to
22 the board.

23 (C) Published one article with all of the following
24 characteristics:

25 (i) Behavior analytic in nature.

26 (ii) Includes at least one experimental evaluation.

27 (iii) Published in a high-quality, peer reviewed journal.

28 (iv) The applicant is the first, second, or corresponding author.

29 (v) The article may have been published at any time during the
30 applicant's career.

31 (D) Obtained supervised experiential training by any of the
32 following:

33 (i) One thousand five hundred hours of independent field work
34 in behavior analysis supervised in accordance with the requirements
35 of the certifying entity.

36 (ii) One thousand hours of supervised practicum in behavior
37 analysis within a university practicum approved by the certifying
38 entity, taken for graduate academic credit, and completed with a
39 passing grade.

1 (iii) Seven hundred fifty hours of supervised intensive practicum
2 in behavior analysis within a university practicum approved by
3 the certifying entity, taken for graduate credit, and completed with
4 a passing grade.

5 (iv) A combination of the supervised experience in clause (i),
6 (ii), or (iii). Hours may be completed in any combination of the
7 categories of supervised experience. Hours accrued through a
8 combination of supervised experience shall be proportionately
9 calculated.

10 (3) An individual shall have completed all of the following:

11 (A) A doctoral degree in behavior analysis, psychology, or
12 education from an accredited higher education institution.

13 (B) Ten years of postdoctoral experience practicing behavior
14 analysis. The duration of practice shall be at least 10 years,
15 cumulatively, of full-time practice. An applicant's practice shall
16 have occurred under a relevant state professional credential or
17 license.

18 (C) At least 500 hours of supplemental supervised experiential
19 training that meets current experience standards of the certifying
20 entity, commencing after the 10 years of postdoctoral experience
21 required in paragraph (b).

22 (f) This section shall become operative on July 1, 2019.

23 2999.33. (a) To obtain a license as an assistant behavior
24 analyst, an individual shall submit an application on a form
25 approved by the board accompanied by the fees required by the
26 board as specified in Section 2999.93.

27 (b) An applicant shall include, with the application, verification
28 from the certifying entity that the applicant meets all of the
29 following requirements:

30 (1) Has passed the Board Certified Assistant Behavior Analyst
31 examination or equivalent examination administered by the
32 certifying entity.

33 (2) Maintains an active status as a certified assistant behavior
34 analyst with the certifying entity.

35 (c) Each applicant shall obtain a passing score on a California
36 law and ethics examination administered by the board.

37 (d) Each applicant shall provide proof to the board of ongoing
38 supervision by a licensed behavior analyst or a licensed
39 psychologist who is qualified to practice behavior analysis in a

1 manner consistent with the certifying entity's requirements for
2 supervision of assistant behavior analysts.

3 (e) This section shall become inoperative on July 1, 2019. An
4 applicant who submits his or her application prior to July 1, 2019,
5 shall be required to meet the requirements of this section to be
6 licensed by the board.

7 (f) This section shall remain in effect only until January 1, 2020,
8 and as of that date is repealed.

9 2999.34. (a) In order for an individual to be licensed as an
10 assistant behavior analyst under this chapter, he or she shall possess
11 a baccalaureate degree or higher level of education from an
12 institution that meets the requirements described in Section
13 2999.35.

14 (b) An applicant shall include, with the application, verification
15 from the certifying entity that the applicant meets both of the
16 following requirements:

17 (1) Has passed the Board Certified Assistant Behavior Analyst
18 examination or an equivalent examination administered by the
19 certifying entity.

20 (2) Maintains an active status as a certified assistant behavior
21 analyst with the certifying entity.

22 (c) Each applicant shall obtain a passing score on a California
23 law and ethics examination administered by the board.

24 (d) Each applicant shall provide proof to the board of ongoing
25 supervision by a licensed behavior analyst or a licensed
26 psychologist who is qualified to practice behavior analysis in a
27 manner consistent with the certifying entity's requirements for
28 supervision of assistant behavior analysts.

29 (e) In addition to subdivisions (a) to (d), inclusive, an individual
30 shall meet all of the following requirements in order to be licensed
31 under this chapter:

32 (1) Completed a baccalaureate degree or higher level of
33 education from an institution that meets the requirements in Section
34 2999.35.

35 (2) An applicant shall meet both of the following:

36 (A) Completed 180 classroom hours of undergraduate or
37 graduate level instruction in all of the following content areas:

38 (i) Ethical and professional conduct coursework of behavior
39 analysis consisting of 15 hours.

1 (ii) Concepts and principles of behavior analysis consisting of
2 45 hours.

3 (iii) Research methods in behavior analysis, consisting of 10
4 hours of measurement, including data analysis, and five hours of
5 experimental design.

6 (iv) Applied behavior analysis, consisting of 45 hours of
7 fundamental elements of behavior change and specific behavior
8 change procedures, 30 hours of identification of the problem and
9 assessment, five hours of intervention and behavior change
10 considerations, five hours of behavior change systems, and five
11 hours of implementation, management, and supervision.

12 (v) Elective coursework in behavior analysis consisting of 15
13 hours.

14 (B) Obtained supervised experiential training by any of the
15 following:

16 (i) One thousand hours of independent field work in behavior
17 analysis supervised in accordance with the requirements of the
18 certifying entity, taken for academic credit, and completed with a
19 passing grade.

20 (ii) Six hundred seventy hours of supervised practicum in
21 behavior analysis within a university practicum approved by the
22 certifying entity, taken for academic credit, and completed with a
23 passing grade.

24 (iii) Five hundred hours of supervised intensive practicum in
25 behavior analysis within a university practicum approved by the
26 certifying entity, taken for academic credit, and completed with a
27 passing grade.

28 (iv) A combination of the supervised experience in clause (i),
29 (ii), or (iii). Hours may be completed in any combination of the
30 categories of supervised experience. Hours accrued through a
31 combination of supervised experience shall be proportionately
32 calculated.

33 (f) This section shall become operative on July 1, 2019.

34 2999.35. The education required to obtain a behavior analyst
35 license or an assistant behavior analyst license shall be from any
36 of the following:

37 (a) A United States institution of higher education listed by the
38 Council for Higher Education Accreditation.

(b) A Canadian institution of higher education that is a member of the Association of Universities and Colleges of Canada or the Association of Canadian Community Colleges.

(c) An applicant for licensure trained in an educational institution outside the United States or Canada shall demonstrate to the satisfaction of the board that he or she possesses a degree in a relevant subject that is equivalent to a degree earned from a regionally accredited university in the United States or Canada. Such an applicant shall provide to the board a comprehensive evaluation of the degree performed by a foreign credential service that is a member of the National Association of Credential Evaluation Services (NACES), and any other documentation that the board deems necessary.

2999.35.5. (a) A person other than a licensed behavior analyst, licensed assistant behavior analyst, or approved behavior analysis technician may be registered as a behavior analyst intern by the board in order to prepare for licensure as a behavior analyst. The behavior analyst intern shall be supervised in accordance with the board's regulations by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis in order to perform behavior analysis services provided that all of the following apply:

(1) The person's title is "behavior analyst intern."

(2) The person meets one of the following requirements:

(A) Is enrolled in a defined program of study, course, practicum, internship, or postdoctoral program that meets the requirements of subdivision (d) of Section 2999.32.

(B) Has completed a defined program of study, course, or postdoctoral traineeship that meets the requirements of subdivision (d) of Section 2999.32 and is currently completing supervised experiential training in accordance with this chapter.

(b) The behavior analyst intern's supervisor shall be responsible for ensuring that the extent, kind, and quality of the behavior analysis services the behavior analyst intern performs are consistent with his or her training and experience and shall be responsible for the behavior analyst intern's compliance with this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2999.62.

(c) The behavior analyst intern shall be registered by the board. In order to register as a behavior analyst intern an individual shall:

1 (1) Submit fingerprint images to the California Department of
2 Justice for a state and federal criminal background report within
3 14 days from the date of application.

4 (2) Pay an application fee, in an amount not to exceed a
5 reasonable regulatory cost, to be determined by the board.

6 (3) Renew his or her application every two years by submitting
7 to the board verification of continued practice, as specified in this
8 section, and by paying to the board a renewal fee in an amount
9 that is 50 percent of the application fee.

10 (4) An individual may only practice as a behavior analyst intern
11 for up to six years from the date of initial registration.

12 (d) No licensed behavior analyst or licensed psychologist who
13 is qualified to practice behavior analysis may supervise more than
14 four behavior analyst interns at any given time unless specifically
15 authorized to do so by the board. No behavior analyst intern may
16 provide behavior analysis services to the public except as a
17 supervisee of a licensed behavior analyst or licensed psychologist
18 who is qualified to practice behavior analysis.

19 2999.36. (a) Behavior analysis technicians practicing in this
20 state under the direction and supervision of an individual licensed
21 under this chapter or a licensed psychologist who is qualified to
22 practice behavior analysis shall satisfy all of the following
23 requirements:

24 (1) Be at least 18 years of age and possess a minimum of a high
25 school diploma or its equivalent.

26 (2) Submit an application on a form approved by the board.

27 (3) Submit fingerprint images to the California Department of
28 Justice for a state and federal criminal background report within
29 14 days from the date of application.

30 (4) Pay an application fee, in an amount not to exceed a
31 reasonable regulatory cost, to be determined by the board.

32 (5) Renew his or her application every two years by submitting
33 to the board verification of continued practice as a behavior
34 analysis technician and by paying to the board a renewal fee in an
35 amount that is 50 percent of the application fee.

36 (b) The board may deny or revoke acceptance of an application
37 or the renewal of an application under this section if it is
38 determined to be in the best interest of public safety and welfare,
39 as described in Section 2999.21.

1 2999.37. On and after July 1, 2019, it shall be unlawful for any
2 person to engage in any of the following acts:

3 (a) Engage in the practice of behavior analysis, as defined in
4 Section 2999.12, without first having complied with the provisions
5 of this chapter and without holding a current, valid, and active
6 license as required by this chapter.

7 (b) Represent himself or herself by using the title “licensed
8 behavior analyst,” or “licensed assistant behavior analyst” without
9 being duly licensed according to the provisions of this chapter.

10 (c) Make any use of any title, words, letters, or abbreviations
11 that may reasonably be confused with a designation provided by
12 this chapter to denote a standard of professional or occupational
13 competence without being duly licensed.

14 (d) Materially refuse to furnish the board information or records
15 required or requested pursuant to this chapter.

16 2999.38. This chapter does not apply to any of the following:

17 (a) An individual licensed to practice psychology in this state
18 under Chapter 6.6 (commencing with Section 2900), if the practice
19 of behavior analysis engaged in by the licensed psychologist is
20 within the licensed psychologist’s training and competence.

21 (b) A speech-language pathologist or an audiologist licensed
22 under Chapter 5.3 (commencing with Section 2530), an
23 occupational therapist licensed under Chapter 5.6 (commencing
24 with Section 2570), a physical therapist licensed under Chapter
25 5.7 (commencing with Section 2600), a marriage and family
26 therapist licensed under Chapter 13 (commencing with Section
27 4980), an educational psychologist licensed under Chapter 13.5
28 (commencing with Section 4989.10), a clinical social worker
29 licensed under Chapter 14 (commencing with Section 4991), or a
30 professional clinical counselor licensed under Chapter 16
31 (commencing with Section 4999.10), if the services provided by
32 any of those licensees are within his or her licensed scope of
33 practice and within the scope of his or her training and competence,
34 provided that he or she does not represent himself or herself as a
35 licensed behavior analyst or licensed assistant behavior analyst.

36 (c) A parent or guardian, or his or her designee, of a recipient
37 of behavior analysis services who acts under the direction of a
38 licensed behavior analyst or an individual exempt pursuant to
39 subdivision (a) or (b) for that recipient.

1 (d) An individual who teaches behavior analysis or conducts
2 behavior analysis research, provided that such teaching or research
3 does not involve the direct delivery of behavior analysis services.

4 (e) A behavior analyst licensed in another state or certified by
5 the certifying entity to practice independently, and who temporarily
6 provides behavior analysis services in California during a period
7 of not more than 90 days in a calendar year.

8 ~~(f) An individual who is vendorized by one or more regional~~
9 ~~centers of the State Department of Developmental Services while~~
10 ~~practicing behavior analysis services authorized under that~~
11 ~~vendorization. That individual shall not represent himself or herself~~
12 ~~as a licensed behavior analyst or licensed assistant behavior analyst~~
13 ~~unless he or she holds a license under this chapter, and shall not~~
14 ~~offer behavior analysis services to any person or entity other than~~
15 ~~the regional centers with which he or she is vendorized or accept~~
16 ~~remuneration for providing behavior analysis services other than~~
17 ~~the remuneration received from those regional centers unless he~~
18 ~~or she holds a license under this chapter.~~

19 ~~(g)~~

20 (f) An individual employed or contracted by a local educational
21 agency, or a nonpublic agency or school with a contract with a
22 local educational agency, for the purpose of serving students with
23 behavioral and developmental issues when in classroom and other
24 school settings. This individual shall not represent himself or
25 herself as a licensed behavior analyst or licensed assistant behavior
26 analyst unless he or she holds a license under this chapter, and
27 shall not offer behavior analysis services to any person or entity
28 other than the local education agencies with which he or she has
29 a contract or accept remuneration for providing behavior analysis
30 services other than the remuneration received from those local
31 education agencies unless he or she holds a license under this
32 chapter.

33 2999.41. A licensee shall give written notice to the board of a
34 name change within 30 days after each change, giving both the
35 old and new names. A copy of the legal document authorizing the
36 name change, such as a court order or marriage certificate, shall
37 be submitted with the notice.

38 2999.44. (a) A license shall expire and become invalid two
39 years after it is issued at 12 midnight on the last day of the month
40 in which it was issued, if not renewed.

1 (b) To renew an unexpired license, the licensee shall, on or
2 before the date on which it would otherwise expire, apply for
3 renewal on a form provided by the board, accompanied by the
4 renewal fee set by the board. The licensee shall include verification
5 from the certifying entity that he or she maintains an active
6 certification status with the renewal form.

7 (c) To renew an assistant behavior analyst license, in addition
8 to the requirements in subdivision (b), the licensee shall submit
9 proof of ongoing supervision by a licensed behavior analyst or a
10 licensed psychologist who is qualified to practice behavior analysis
11 in a manner consistent with the board's requirements for
12 supervision of assistant behavior analysts.

13 2999.45. (a) A license that has expired may be renewed at any
14 time within three years after its expiration by applying for renewal
15 on a form provided by the board, payment of all accrued and unpaid
16 renewal fees, and the delinquency fee specified in Section 2999.93.
17 The licensee shall include verification from the certifying entity
18 that he or she maintains an active certification status with the
19 renewal form.

20 (b) Except as provided in Section 2999.47, a license that is not
21 renewed within three years of its expiration shall not be renewed,
22 restored, or reinstated, and the license shall be canceled
23 immediately upon expiration of the three-year period.

24 2999.46. (a) The board shall not issue any renewal license, a
25 new license after expiration of an expired license, or a reinstatement
26 license unless the applicant submits proof that he or she has
27 completed not less than 32 hours of approved continuing education
28 in the preceding two-year licensure cycle for licensed behavior
29 analysts and 20 hours of approved continuing education in the
30 preceding two-year licensure cycle for licensed assistant behavior
31 analysts.

32 (b) Each person renewing or reinstating his or her license or
33 obtaining a new license after expiration of a prior license issued
34 pursuant to this chapter shall submit proof of compliance with this
35 section to the board.

36 (c) A person applying for renewal, a new license after expiration
37 of a prior license, or reinstatement to an active license status shall
38 certify under penalty of perjury that he or she is in compliance
39 with this section.

1 (d) The board may recognize continuing education courses that
2 have been approved by the certifying entity.

3 (e) The board shall adopt regulations as necessary for
4 implementation of this section.

5 2999.47. (a) A suspended license is subject to expiration and
6 shall be renewed as provided in this article, but such renewal does
7 not entitle the licensee, while the license remains suspended, and
8 until it is reinstated, to engage in the licensed activity or in any
9 other activity or conduct in violation of the order or judgment by
10 which the license was suspended.

11 (b) A license revoked on disciplinary grounds is subject to
12 expiration as provided in this article, but it may not be renewed.
13 If it is reinstated after its expiration, the licensee, as a condition
14 of reinstatement, shall pay a reinstatement fee in an amount equal
15 to the renewal fee, plus the delinquency fee, and any fees accrued
16 at the time of its revocation.

17
18 Article 4. Enforcement
19

20 2999.60. The board may on its own, and shall, upon the receipt
21 of a complaint from any person, investigate the actions of any
22 licensee. The board shall review a licensee's alleged violation of
23 statute, regulation, or any other law and any other complaint
24 referred to it by the public, a public agency, or the department,
25 and may upon a finding of a violation take disciplinary action
26 under this article.

27 2999.61. A license issued under this chapter may be denied,
28 revoked, or otherwise sanctioned upon demonstration of
29 ineligibility for licensure, including, but not limited to, failure to
30 maintain active certification by the certifying entity or falsification
31 of documentation submitted to the board for licensure or submitted
32 to the certifying authority for certification.

33 2999.62. The board may refuse to issue a registration or license,
34 or may issue a registration or license with terms and conditions,
35 or may suspend or revoke the registration or license of any
36 registrant or licensee if the applicant, registrant, or licensee has
37 been guilty of unprofessional conduct. Unprofessional conduct
38 shall include, but not be limited to:

- 1 (a) Conviction of a crime substantially related to the
2 qualifications, functions, or duties of a licensed behavior analyst
3 or a licensed assistant behavior analyst.
- 4 (b) Use of any controlled substance as defined in Division 10
5 (commencing with Section 11000) of the Health and Safety Code,
6 dangerous drug, or any alcoholic beverage to an extent or in a
7 manner dangerous to himself or herself, any other person, or the
8 public, or to an extent that this use impairs his or her ability to
9 safely perform the practice of behavior analysis.
- 10 (c) Fraudulently or neglectfully misrepresenting the type or
11 status of a license actually held.
- 12 (d) Impersonating another person holding a license or allowing
13 another person to use his or her license.
- 14 (e) Use of fraud or deception in applying for a license or in
15 passing any examination required by this chapter.
- 16 (f) Paying, offering to pay, accepting, or soliciting any
17 consideration, compensation, or remuneration, whether monetary
18 or otherwise, for the referral of clients.
- 19 (g) Violating Section 17500.
- 20 (h) Willful, unauthorized communication of information
21 received in professional confidence.
- 22 (i) Violating any rule of professional conduct promulgated by
23 the board and set forth in regulations duly adopted under this
24 chapter.
- 25 (j) Being grossly negligent in the practice of his or her
26 profession.
- 27 (k) Violating any of the provisions of this chapter or regulations
28 duly adopted thereunder.
- 29 (l) The aiding or abetting of any person to engage in the unlawful
30 practice of behavior analysis.
- 31 (m) The suspension, revocation, or imposition of probationary
32 conditions or other disciplinary action by another state or country
33 of a license, certificate, or registration to practice behavior analysis
34 issued by that state or country to a person also holding a license
35 issued under this chapter if the act for which the disciplinary action
36 was taken constitutes a violation of this section. A certified copy
37 of the decision or judgment of the other state or country shall be
38 conclusive evidence of that action.
- 39 (n) The commission of any dishonest, corrupt, or fraudulent act.

1 (o) Any act of sexual abuse or sexual relations with a patient,
2 with a former patient, or with a patient's parent, guardian, or
3 caregiver within two years following termination of therapy, or
4 sexual misconduct that is related to the qualifications, functions,
5 or duties of a licensed behavior analyst or a licensed assistant
6 behavior analyst.

7 (p) Functioning outside of his or her particular field or fields of
8 competence as established by his or her education, training, and
9 experience.

10 (q) Willful failure to submit, on behalf of an applicant for
11 licensure, verification of supervised experience to the board.

12 (r) Repeated acts of negligence.

13 (s) Failure to comply with all ethical and disciplinary standards
14 published by the certifying entity.

15 2999.63. (a) Except as provided in subdivisions (b), (c), and
16 (e), any accusation filed against a licensee pursuant to Section
17 11503 of the Government Code shall be filed within three years
18 from the date the board discovers the alleged act or omission that
19 is the basis for disciplinary action, or within seven years from the
20 date the alleged act or omission that is the basis for disciplinary
21 action occurred, whichever occurs first.

22 (b) An accusation filed against a licensee pursuant to Section
23 11503 of the Government Code alleging the procurement of a
24 license by fraud or misrepresentation is not subject to the
25 limitations set forth in subdivision (a).

26 (c) The limitation provided for by subdivision (a) shall be tolled
27 for the length of time required to obtain compliance when a report
28 required to be filed by the licensee or registrant with the board
29 pursuant to Article 11 (commencing with Section 800) of Chapter
30 1 is not filed in a timely fashion.

31 (d) If an alleged act or omission involves a minor, the seven-year
32 limitations period provided for by subdivision (a) and the 10-year
33 limitations period provided for by subdivision (e) shall be tolled
34 until the minor reaches the age of majority.

35 (e) An accusation filed against a licensee pursuant to Section
36 11503 of the Government Code alleging sexual misconduct shall
37 be filed within three years after the board discovers the act or
38 omission alleged as the ground for disciplinary action, or within
39 10 years after the act or omission alleged as the ground for
40 disciplinary action occurs, whichever occurs first.

1 (f) The limitations period provided by subdivision (a) shall be
2 tolled during any period if material evidence necessary for
3 prosecuting or determining whether a disciplinary action would
4 be appropriate is unavailable to the board due to an ongoing
5 criminal investigation.

6 2999.64. Notwithstanding Section 2999.62, any proposed
7 decision or decisions issued under this chapter in accordance with
8 the procedures set forth in Chapter 5 (commencing with Section
9 11500) of Part 1 of Division 3 of Title 2 of the Government Code
10 that contains any finding of fact that the licensee engaged in any
11 act of sexual contact, as defined in Section 728, when that act is
12 with a patient, with a former patient, or with a patient's parent,
13 guardian, or caregiver within two years following termination of
14 services, shall contain an order of revocation. The revocation shall
15 not be stayed by the administrative law judge.

16 2999.66. The board may deny an application for, or issue
17 subject to terms and conditions, or suspend or revoke, or impose
18 probationary conditions upon, a license or registration after a
19 hearing as provided in Section 2999.70.

20 2999.67. A plea or verdict of guilty or a conviction following
21 a plea of nolo contendere made to a charge which is substantially
22 related to the qualifications, functions, and duties of a licensed
23 behavior analyst or licensed assistant behavior analyst is deemed
24 to be a conviction within the meaning of this article. The board
25 may order the license suspended or revoked, or may decline to
26 issue a license when the time for appeal has elapsed, the judgment
27 of conviction has been affirmed on appeal, or when an order
28 granting probation is made suspending the imposition of sentence,
29 irrespective of a subsequent order under Section 1203.4 of the
30 Penal Code allowing the person to withdraw his or her plea of
31 guilty and to enter a plea of not guilty, or setting aside the verdict
32 of guilty, or dismissing the accusation, information, or indictment.

33 2999.68. Any person required to register as a sex offender
34 pursuant to Section 290 of the Penal Code, is not eligible for
35 licensure by the board.

36 2999.69. An administrative disciplinary decision that imposes
37 terms of probation may include, among other things, a requirement
38 that the licensee who is being placed on probation pay the monetary
39 costs associated with monitoring the probation.

1 2999.70. The proceedings under this article shall be conducted
2 by the board in accordance with Chapter 5 (commencing with
3 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
4 Code.

5 2999.80. A person who violates any of the provisions of this
6 chapter is guilty of a misdemeanor punishable by imprisonment
7 in a county jail not exceeding six months or by a fine not exceeding
8 two thousand five hundred dollars (\$2,500), or by both that fine
9 and imprisonment.

10 2999.81. In addition to other proceedings provided in this
11 chapter, whenever any person has engaged, or is about to engage,
12 in any acts or practices that constitute, or will constitute, an offense
13 against this chapter, the superior court in and for the county
14 wherein the acts or practices take place, or are about to take place,
15 may issue an injunction or other appropriate order restraining that
16 conduct on application of the board, the Attorney General, or the
17 district attorney of the county. Proceedings under this section shall
18 be governed by Chapter 3 (commencing with Section 525) of Title
19 7 of Part 2 of the Code of Civil Procedure, except that it shall be
20 presumed that there is no adequate remedy at law and that
21 irreparable damage will occur if the continued violation is not
22 restrained or enjoined. On the written request of the board, or on
23 its own motion, the board may commence an action in the superior
24 court under this section.

25 2999.83. (a) (1) A licensee who fails or refuses to comply
26 with a request for the medical records of a client, that is
27 accompanied by that client's written authorization for release of
28 those records to the board, within 15 days of receiving the request
29 and authorization, shall pay to the board a civil penalty of one
30 thousand dollars (\$1,000) per day for each day that the documents
31 have not been produced after the 15th day, unless the licensee is
32 unable to provide the documents within this time period for good
33 cause.

34 (2) A health care facility shall comply with a request for the
35 medical records of a client that is accompanied by that client's
36 written authorization for release of records to the board together
37 with a notice citing this section and describing the penalties for
38 failure to comply with this section. Failure to provide the
39 authorizing client's medical records to the board within 30 days
40 of receiving the request, authorization, and notice shall subject the

1 health care facility to a civil penalty, payable to the board, of up
2 to one thousand dollars (\$1,000) per day for each day that the
3 documents have not been produced after the 30th day, up to ten
4 thousand dollars (\$10,000), unless the health care facility is unable
5 to provide the documents within this time period for good cause.
6 This paragraph shall not require health care facilities to assist the
7 board in obtaining the client's authorization. The board shall pay
8 the reasonable costs of copying the medical records.

9 (b) (1) A licensee who fails or refuses to comply with a court
10 order, issued in the enforcement of a subpoena, mandating the
11 release of records to the board shall pay to the board a civil penalty
12 of one thousand dollars (\$1,000) per day for each day that the
13 documents have not been produced after the date by which the
14 court order requires the documents to be produced, unless it is
15 determined that the order is unlawful or invalid. Any statute of
16 limitations applicable to the filing of an accusation by the board
17 shall be tolled during the period the licensee is out of compliance
18 with the court order and during any related appeals.

19 (2) Any licensee who fails or refuses to comply with a court
20 order, issued in the enforcement of a subpoena, mandating the
21 release of records to the board, shall be subject to a civil penalty,
22 payable to the board, in an amount not to exceed five thousand
23 dollars (\$5,000). The amount of the penalty shall be added to the
24 licensee's renewal fee if it is not paid by the next succeeding
25 renewal date. Any statute of limitations applicable to the filing of
26 an accusation by the board shall be tolled during the period the
27 licensee is out of compliance with the court order and during any
28 related appeals.

29 (3) A health care facility that fails or refuses to comply with a
30 court order, issued in the enforcement of a subpoena, mandating
31 the release of client records to the board, that is accompanied by
32 a notice citing this section and describing the penalties for failure
33 to comply with this section, shall pay to the board a civil penalty
34 of up to one thousand dollars (\$1,000) per day for each day that
35 the documents have not been produced, up to ten thousand dollars
36 (\$10,000), after the date by which the court order requires the
37 documents to be produced, unless it is determined that the order
38 is unlawful or invalid. Any statute of limitations applicable to the
39 filing of an accusation by the board against a licensee shall be

1 tolled during the period the health care facility is out of compliance
2 with the court order and during any related appeals.

3 (4) Any health care facility that fails or refuses to comply with
4 a court order, issued in the enforcement of a subpoena, mandating
5 the release of records to the board, shall be subject to a civil
6 penalty, payable to the board, in an amount not to exceed five
7 thousand dollars (\$5,000). Any statute of limitations applicable to
8 the filing of an accusation by the board against a licensee shall be
9 tolled during the period the health care facility is out of compliance
10 with the court order and during any related appeals.

11 (c) Multiple acts by a licensee in violation of subdivision (b)
12 shall be a misdemeanor punishable by a fine not to exceed five
13 thousand dollars (\$5,000) or by imprisonment in a county jail not
14 exceeding six months, or by both that fine and imprisonment.
15 Multiple acts by a health care facility in violation of subdivision
16 (b) shall be a misdemeanor punishable by a fine not to exceed five
17 thousand dollars (\$5,000) and shall be reported to the State
18 Department of Health Care Services and shall be considered as
19 grounds for disciplinary action with respect to licensure, including
20 suspension or revocation of the license or certificate.

21 (d) A failure or refusal of a licensee to comply with a court
22 order, issued in the enforcement of a subpoena, mandating the
23 release of records to the board constitutes unprofessional conduct
24 and is grounds for suspension or revocation of his or her license.

25 (e) The imposition of the civil penalties authorized by this
26 section shall be in accordance with the Administrative Procedure
27 Act (Chapter 5 (commencing with Section 11500) of Part 1 of
28 Division 3 of Title 2 of the Government Code).

29 (f) For purposes of this section, "health care facility" means a
30 clinic or health facility licensed or exempt from licensure pursuant
31 to Division 2 (commencing with Section 1200) of the Health and
32 Safety Code.

33 Article 5. Revenue

34
35
36 2999.90. The board shall report each month to the Controller
37 the amount and source of all revenue received pursuant to this
38 chapter and at the same time deposit the entire amount thereof in
39 the State Treasury for credit to the Psychology Fund established
40 by Section 2980.

1 2999.91. (a) The moneys credited to the Psychology Fund
2 under Section 2999.90 shall, upon appropriation by the Legislature,
3 be used for the purposes of carrying out and enforcing the
4 provisions of this chapter.

5 (b) The board shall keep records that will reasonably ensure
6 that funds expended in the administration of each licensing
7 category bear a reasonable relation to the revenue derived from
8 each category, and shall so notify the department no later than
9 May 31 of each year.

10 2999.93. The board shall establish fees for the application for
11 and the issuance and renewal of licenses to cover, but not exceed,
12 the reasonable regulatory costs of the board related to administering
13 this chapter. The fees shall be fixed by the board in regulations
14 that are duly adopted under this chapter. Fees assessed pursuant
15 to this section shall not exceed the following:

16 (a) The delinquency fee shall be 50 percent of the biennial
17 renewal fee.

18 (b) The fee for rescoring an examination shall be twenty dollars
19 (\$20).

20 (c) The fee for issuance of a replacement license shall be twenty
21 dollars (\$20).

22 (d) The fee for issuance of a certificate or letter of good standing
23 shall be twenty-five dollars (\$25).

24 2999.94. (a) A person licensed under this chapter is exempt
25 from the payment of the renewal fee in any one of the following
26 instances:

27 (1) While engaged in full-time active service in the United States
28 Army, Navy, Air Force, or Marine Corps.

29 (2) While in the United States Public Health Service.

30 (3) While a volunteer in the Peace Corps or AmeriCorps VISTA.

31 (b) Every person exempted from the payment of the renewal
32 fee by this section shall not engage in any private practice and
33 shall become liable for the fee for the current renewal period upon
34 the completion of his or her period of full-time active service and
35 shall have a period of 60 days after becoming liable within which
36 to pay the fee before the delinquency fee becomes applicable. Any
37 person who completes his or her period of full-time active service
38 within 60 days of the end of a renewal period is exempt from the
39 payment of the renewal fee for that period.

1 (c) The time spent in that full-time active service or full-time
2 training and active service shall not be included in the computation
3 of the three-year period for renewal of an expired license specified
4 in Section 2999.45.

5 (d) The exemption provided by this section shall not be
6 applicable if the person engages in any practice for compensation
7 other than full-time service in the United States Army, Navy, Air
8 Force, or Marine Corps, in the United States Public Health Service,
9 or the Peace Corps or AmeriCorps VISTA.

10 2999.98. The licensing and regulatory program under this
11 chapter shall be supported from fees assessed to applicants and
12 licensees. Startup funds to implement this program shall be derived,
13 as a loan, from the Psychology Fund, subject to an appropriation
14 by the Legislature in the annual Budget Act. The board shall not
15 implement this chapter until funds have been appropriated.

16 SEC. 10. No reimbursement is required by this act pursuant
17 to Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.